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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,654	02/01/2002	James A. Francois	Z1154/CG-963	1816

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EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 07/17/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/061,654

Applicant(s)

FRANCOIS ET AL.

Examiner

LIEN TM NGO

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3727

DETAILED ACTION

Claim Objections

1. Claims 16-18 are objected to because of the following informalities:

In claim 16, line 2, "a closure" should be -- said closure--;

in claims 17 and 18, line 2 and 3, "a fitment" and "a closure" should be --said fitment-- and -- said closure--, respectively.

Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The drawing does not show the cross section symbolic of a plastic as set forth in claim 15. Therefore, the plastic must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the proper section of the proper cross section of a closure and a fitment in cross section symbolic of plastic as described in the specification. Any structural detail that is essential for a proper understanding

Art Unit: 3727

of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kano et al.

(Pub. US 2002/0158037 A1) in view of Bosl et al. (6,502,710).

Kano et al. disclose, in fig. 2, a container comprising a closure 2 and a fitment having a neck 56. The closure comprises a top wall 4, a side wall 6, an inner sealing ring 38 having a beveled lower terminating edge 50, and a circumferentially vertically rib 34 extending along an inner surface of the side wall adjacent the top wall. The spacing between an upper portion of said rib and an upper portion of an outer surface of said sealing ring 38 is less than the thickness of the fitment neck, and the spacing between lower terminating edges of said outer edges of said ribs and said outer surface of said sealing ring is greater than the thickness of the container neck. Said top

Art Unit: 3727

wall has a downwardly extending flanged portion 36 spaced between said upper portion of said rib and said outer surface of said inner sealing ring.

Kano et al. do not disclose the rib being discontinuous or comprising a plurality of spaced ribs.

Bosl et al. teach, in fig. 1, a container closure comprising a plurality of circumferentially spaced ribs extending along an inner surface of the side wall adjacent the top wall of the closure.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rib in the Kano et al. being discontinuous with a plurality of spaced ribs, as taught by Bosl et al., in order to improve the flexibility of the rib to prevent a possible break of the rib when the container neck engages with the closure.

In regard to claim 15, Kano et al. disclose, in page 1, paragraphs [002) and [003], the container formed from a plastic material, and the closure form from a high density plastic material. Therefore, it would have been obvious to one having ordinary skill in the art to make the Kano et al. closure being of a harder plastic material than the fitment as claimed, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3727

Thompson, Bennett et al., Haines, Kano, Strassheimer, Schellenbach, Pfefferkorn et al.,
and Taha teach closures with sealing ribs.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

June 26, 2003
